

# GHAJAR EXHIBIT 57

4/4/2025

Richard Kadrey, et al. v. Meta Platforms, Inc.  
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Barbara Frederiksen-Cross

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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IN RE MATTER OF: )  
RICHARD KADREY, et al., )  
Plaintiff, )  
vs. ) C.A. NO.:  
META PLATFORMS, INC., ) 3:23-cv-03417-VC  
Defendant. )  
)

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\*\* HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY \*\*  
VIDEOTAPED DEPOSITION OF BARBARA FREDERIKSEN-CROSS  
Palo Alto, California  
Friday, April 4, 2025

Stenographically Reported by:  
HEATHER J. BAUTISTA, CSR, CRR, RPR, CLR  
Realtime Systems Administrator  
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1 sworn, rather?

2 A. Yes.

3 Q. And that you submitted it under penalty of  
4 perjury --

5 A. Correct.

6 Q. -- is that correct?

7 Is there anything in this declaration that  
8 you now know to be untrue?

9 A. Nothing that I'm aware of.

10 Q. Okay.

11 And you mentioned that you submitted a  
12 rebuttal expert report, Paragraph 1 of this  
13 declaration, on February 10th, 2025.

14 Do you see that there?

15 A. Yes.

16 Q. And then you see in Paragraph 2 that "all  
17 of the statements in my rebuttal report are accurate  
18 to the best of my knowledge, information, and  
19 belief."

20 Do you see that there?

21 A. Yes.

22 Q. Do you today, under oath, still believe

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1 that all of the statements in your rebuttal report  
2 of February 10th, 2025 are accurate to the best of  
3 your knowledge, information, and belief?

4 A. There is one table that I provided new  
5 counts for in my -- as an appendix to my next  
6 report. Because after the filing of my original  
7 report, when I looked -- was working with that  
8 information to just examine it more closely, I  
9 realized that I had erroneously double-counted some  
10 files because there were what are called .tar files.  
11 That's a container file. And then the files from  
12 the .tar had been extracted from the tar file and so  
13 in deriving my counts, I had erroneously counted  
14 those twice basically and so I provided a  
15 replacement table for that in my most recent report.

16 But as I sit here today, that's the only  
17 thing that I'm aware of that would have been  
18 erroneous from that earlier report.

19 Q. Okay.

20 Besides what might have been erroneous, do  
21 you -- the statement here is that it's accurate to  
22 the best of your knowledge, information, and belief.

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1 Do you still stand by that statement apart  
2 from the table you just mentioned?

3 A. Yes.

4 THE VIDEOGRAPHER: Excuse me. David  
5 Choffnes has joined the Zoom.

6 MR. STEIN: Thank you.

7 Q. (By Mr. Stein) And is there any  
8 information that you have reviewed with respect to  
9 the subject matter of your first rebuttal report  
10 subsequent to your submitting of that property that  
11 might alter any of the conclusions that you make in  
12 that first report?

13 A. Nothing that I can think of as I sit here,  
14 no.

15 Q. What information have you accessed about  
16 the subject matter of your report -- first report  
17 from February since the submission of that report?

18 A. It would be helpful to me if you could  
19 provide me a copy of that report just so as I flip  
20 through, I see what materials were already listed in  
21 that report.

22 But as a general category, there was some

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1 Q. You mean the footnote number?

2 A. Yeah, that would be the footnote number.

3 Q. Okay.

4 A. So I would want to look at that and, you  
5 know, the -- the report itself. I didn't memorize  
6 the numbers.

7 Q. And do you recall having determined whether  
8 they were, in your words, in the same ballpark when  
9 you saw those tabulations?

10 A. That is my recollection, yes.

11 Q. Okay.

12 And you -- you submitted a report on  
13 your -- it's entitled "The Second Rebuttal Expert  
14 Report" on April 1st, 2025.

15 Do you recall that?

16 A. Yes.

17 Q. And would you say the same thing today that  
18 you said about your first report, that all of the  
19 statements therein are accurate to the best of your  
20 knowledge, information, and belief?

21 A. Yes.

22 MR. STEIN: I'd like to enter BFC Exhibit 1

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1 "it is unlikely that Meta shared complete pieces  
2 comprising each of the plaintiffs' works during the  
3 leeching phase."

4 Could you say the same thing about the  
5 likelihood of Meta sharing partial or parts of  
6 pieces of Plaintiffs' works?

7 A. Yes, I would say the same thing about parts  
8 of pieces. If we're talking parts of piece by parts  
9 of piece, you mean a block.

10 Q. Even a single block?

11 A. Even a single block, yeah.

12 Q. Your testimony today is that it is unlikely  
13 that Meta shared even a single block comprising the  
14 plaintiffs' works during the leeching phase?

15 A. That's what my analysis suggests, yes.

16 Q. Why -- setting aside your concerns about  
17 whether the 30 percent number is completely the  
18 result of uploading during the leeching phase, if  
19 that 30 percent were all data that was uploaded  
20 during the leeching phase of the data that was  
21 downloaded, why wouldn't the likelihood that  
22 Plaintiffs' works were shared be 30 percent?

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1 MR. WEINSTEIN: Object to form.

2 THE WITNESS: Because you are comparing the  
3 total percent of what was downloaded, which are  
4 these datasets that contain millions of works, to  
5 the percent of that download that are comprised by  
6 Plaintiff's works which is a tiny, tiny portion of  
7 that.

8 You're looking at me like you're not  
9 understanding what I'm saying.

10 Q. (By Mr. Stein) Well, to me, 30 percent is  
11 30 percent. So if you have a huge collection of  
12 work and 30 percent of that huge collection of work  
13 was shared, why couldn't you say that the likelihood  
14 of any part of that work being shared was 30  
15 percent?

16 A. Well, first of all, you're making an  
17 assumption that the raw number of bytes uploaded and  
18 downloaded are always from different works or always  
19 different -- different pieces of different torrents  
20 if you will. My own experience, again, with  
21 BitTorrent and with analyzing BitTorrent traffic, is  
22 that that is not necessarily the case and not even



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1 likely to be the case.

2 So as a first point, you can't draw that  
3 direct "I uploaded a hundred, I downloaded" -- or  
4 I'm sorry -- "I downloaded a hundred, I uploaded a  
5 hundred."

6 You can't say that that means that 30 of  
7 the hundred were uploaded, because that -- there's  
8 no evidence that you have available here that tells  
9 you that.

10 Typically, some torrents are more popular  
11 than others. So if you're downloading a selection  
12 of torrents, the more popular ones will be  
13 downloaded more frequently by multiple peers. The  
14 less popular ones less frequently. There may be no  
15 peers at all asking for some of them. So that's a  
16 first issue.

17 And then with respect to -- so you don't  
18 know that the 30 percent is 30 percent of the total  
19 work. You just know that it's 30 percent of the  
20 number of bytes.

21 And then as I think I've explained, if --  
22 it's kind of like the lottery, you know, if the odds

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1 of a particular -- let's do it easy at the file  
2 level here. If the odds of a particular file being  
3 downloaded are 1 in 4 million or 1 in 3 million,  
4 then the odds of some small piece of that file are  
5 even more attenuated in that process.

6 And so if you're talking about some finite  
7 period of time -- and we're not talking about a  
8 situation here when leeching went on for years or  
9 the leeching that was followed by seeding that went  
10 on for years; we're talking about activity that  
11 happened in a finite amount of time for a known  
12 quantum of data and in a situation where the portion  
13 of that known quantum that is represented by  
14 Plaintiffs' works is minuscule.

15 In that situation, the likelihood of the  
16 plaintiffs' works or a portion thereof being what  
17 was in the uploaded content I think is very low  
18 likelihood, very unlikely.

19 Q. What evidence do you have that tells us  
20 anything about the content of what was shared?

21 A. I do not have direct evidence about the  
22 content that was shared. As we discussed earlier,

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1 I, HEATHER J. BAUTISTA, CSR No. 11600,  
2 Certified Shorthand Reporter, certify:

3 That the foregoing proceedings were taken  
4 before me at the time and place therein set forth,  
5 at which time the witness declared under penalty of  
6 perjury; that the testimony of the witness and all  
7 objections made at the time of the examination were  
8 recorded stenographically by me and were thereafter  
9 transcribed under my direction and supervision; that  
10 the foregoing is a full, true, and correct  
11 transcript of my shorthand notes so taken and of the  
12 testimony so given;

13 (XX) Reading and signing was not requested/offered.

14 I further certify that I am not financially  
15 interested in the action, and I am not a relative or  
16 employee of any attorney of the parties, nor of any  
17 of the parties.

18 I declare under penalty of perjury under the  
19 laws of California that the foregoing is true and  
20 correct. Dated: April 6, 2025

21

22

  
HEATHER J. BAUTISTA, CSR, CRR, RPR, CLR